

MONTANA LEGISLATIVE HISTORY

Chapter 474 19 89

Bill H 82 S _____ Original bill & history C

H. Committee on Human Services & Aging

Hearing Date(s) Jan 11 ☒ C

Jan 13 ☒ C

_____ C

_____ C

Date Out Jan 13 ☒ C

S. Committee on Judiciary

Hearing Date(s) Mar 01 ☒ C

_____ C

_____ C

_____ C

Mar 01 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE FINAL STATUS

1/24	HEARING		
1/25	COMMITTEE REPORT--BILL CONCURRED		
1/27	2ND READING CONCURRED	49	0
1/30	3RD READING CONCURRED	49	0

RETURNED TO HOUSE

2/04	SIGNED BY SPEAKER		
2/06	SIGNED BY PRESIDENT		
2/06	TRANSMITTED TO GOVERNOR		
2/10	SIGNED BY GOVERNOR		
CHAPTER NUMBER 6		EFFECTIVE DATE: 10/01/89	

HB 86 INTRODUCED BY KILPATRICK, ET AL.
ALLOW LONG-TERM CARE OMBUDSMAN ACCESS TO MEDICAL
AND SOCIAL RECORDS; PROHIBIT DISCRIMINATION
BY LONG-TERM CARE FACILITIES
BY REQUEST OF DEPARTMENT OF FAMILY SERVICES

1/06	INTRODUCED		
1/06	REFERRED TO HUMAN SERVICES & AGING		
1/10	FISCAL NOTE REQUESTED		
1/11	HEARING		
1/13	HEARING		
1/14	FISCAL NOTE RECEIVED		
1/16	FISCAL NOTE PRINTED		
1/23	TABLED IN COMMITTEE		

HB 87 INTRODUCED BY KILPATRICK, ET AL.
CHANGE DEFINITIONS IN CHILD ABUSE, NEGLECT, AND
DEPENDENCY LAW
BY REQUEST OF DEPARTMENT OF FAMILY SERVICES

1/06	INTRODUCED		
1/06	REFERRED TO HUMAN SERVICES & AGING		
1/07	FISCAL NOTE REQUESTED		
1/11	HEARING		
1/12	FISCAL NOTE RECEIVED		
1/13	HEARING		
1/13	FISCAL NOTE PRINTED		
1/19	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/23	2ND READING PASSED	93	0
1/25	3RD READING PASSED	96	0

TRANSMITTED TO SENATE

1/26	REFERRED TO JUDICIARY		
3/01	HEARING		
3/02	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/03	2ND READING CONCURRED	48	0
3/06	3RD READING CONCURRED	50	0

RETURNED TO HOUSE WITH AMENDMENTS

3/08	MOTION TO CONCUR WITH AMENDMENTS ON 2ND READING FAILED	41	46
3/09	CONFERENCE COMMITTEE APPOINTED		
3/17	CONFERENCE COMMITTEE REPORT NO. 1		
3/30	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	63	31
3/31	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	82	15

HOUSE FINAL STATUS

SENATE

3/09	CONFERENCE COMMITTEE APPOINTED		
3/16	CONFERENCE COMMITTEE REPORT NO. 1		
3/18	2ND READING CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	46	0
3/21	3RD READING CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	49	0
4/06	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 474 EFFECTIVE DATE:	4/08/89	

HB 88 INTRODUCED BY HARPER
REVISE DISTRIBUTION OF SCHOOL FUNDING

1/06	INTRODUCED		
1/06	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/12	FISCAL NOTE REQUESTED		
1/18	FISCAL NOTE RECEIVED		
1/20	FISCAL NOTE PRINTED		
1/23	HEARING		
2/15	TABLED IN COMMITTEE		

HB 89 INTRODUCED BY PECK, ET AL.
REVISE AND CLARIFY PROVISIONS OF STATE RETIREMENT
SYSTEMS
BY REQUEST OF DEPARTMENT OF ADMINISTRATION

1/06	INTRODUCED		
1/06	REFERRED TO STATE ADMINISTRATION		
1/07	FISCAL NOTE REQUESTED		
1/14	FISCAL NOTE RECEIVED		
1/16	FISCAL NOTE PRINTED		
1/18	HEARING		
1/18	COMMITTEE REPORT--BILL PASSED AND PLACED ON CONSENT CALENDAR		
1/21	3RD READING PASSED	93	0
	TRANSMITTED TO SENATE		
1/23	REFERRED TO STATE ADMINISTRATION		
3/01	HEARING		
3/01	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/03	2ND READING CONCURRED	48	0
3/06	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/08	2ND READING AMENDMENTS CONCURRED	88	0
3/09	3RD READING AMENDMENTS CONCURRED	92	0

3/14	SIGNED BY SPEAKER		
3/15	SIGNED BY PRESIDENT		
3/15	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 196 EFFECTIVE DATE:	3/20/89	

HB 90 INTRODUCED BY EUDAILY
EXEMPT FROM PROPERTY TAX ALL RECREATIONAL HARNESS,
SADDLERY & TACK EQUIPMENT

state was now in compliance with the Older Americans Act. Access to the medical records, including by an ombudsman, is available.

Rep. Boharski then asked Ms. Hughes if she felt if this legislation was nothing more than reiterating the federal code and if she would have any reason not to be in favor of this legislation. Ms. Hughes said this piece of legislation does not clarify what is on record, it muddies the water because the language is not the same as in the Uniform Health Information Act. Rep. Boharski then questioned the issue of liability and Ms. Hughes said that the question is not included anywhere because a facility must allow these people access.

Closing by Sponsor: Rep. Kilpatrick closed the discussion on this bill.

HEARING ON HB 87

Presentation and Opening Statement by Sponsor: Rep. Kilpatrick stated that this bill was an act to amend certain definitions within the child abuse, neglect, and dependency law.

List of Testifying Proponents and What Group They Represent:

John Madsen, Montana Department of Family Services

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John Madsen supports this legislation and said that the Department of Family Services receives approximately \$170,000 per year in federal child abuse and neglect money. Failure to bring these definitions into compliance with the federal "Model Act" will cause the loss of that money. This money is currently used by DFS to improve the child abuse and neglect prevention and treatment components of the program. The loss of this funding would be a substantial one.

Questions From Committee Members: None

Closing by Sponsor: Rep. Kilpatrick closes on this bill.

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1/11/89

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell		✓	
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

January 11, 1989

TESTIMONY IN SUPPORT OF HB87

"AN ACT TO AMEND CERTAIN DEFINITIONS WITHIN THE CHILD ABUSE, NEGLECT AND DEPENDENCY LAW; AMENDING SECTION 41-3-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

John Madsen, Department of Family Services

The Department requests these changes to comply with provisions of Public Law 93-247, the Child Abuse Prevention and Treatment Act ("Model Act").

Montana DFS receives approximately \$170,000 per year in federal child abuse and neglect money. Failure to bring these definitions into compliance with the federal "Model Act" will cause the loss of that \$170,000. This money is currently used by DFS to improve the child abuse and neglect prevention and treatment components of our program. For example, the money is used to train social workers, law enforcement officers, county attorneys, and medical professionals in all aspects of sexual abuse. The loss would be a substantial one to our program.

There are many changes in the bill, most of them technical in nature, to clean up the act.

EXHIBIT 4
DATE 1-11-87
HB 87

The first change I would like to note is that dealing with child sexual abuse and exploitation. This change will provide a clearer definition of the problem.

The most substantial and far reaching change found in the bill is that adding day care providers to the list of persons responsible. This change was brought about because of the child sexual abuse that has been discovered to be occurring nationwide in day care facilities. As has already been noted, Montana DFS already investigates complaints in day care facilities as part of its regulatory function.

The other changes are technical in nature. I would be happy to answer questions about any of the changes in the bill.

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEEBILL NO. HB 87DATE 1/11/89SPONSOR Rep. Kilpatrick

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
John Madson	Family Services	X	
~~William L. Madson~~	~~2277 1/2 St. NW~~	~~X~~	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Discussion: Rep. Good felt that 30 days was too short a time. Rep. Stickney responded that it would not.

Amendments and Votes: All in favor stated yes with Rep. Good opposing.

DISPOSITION OF HB 87

Disposition: Rep. Russell made a motion to DO PASS AS AMENDED.

Discussion: Rep. Boharski asked Ms. McCue questioned the fiscal note. Ms. McCue stated that the federal regulation states that the changes which were proposed were conformed. To conform to the federal law, the changes are necessary.

Amendments and Votes: Rep. Whalen made a Motion to AMEND the bill.

Discussion: Rep. Stickney asked Rep. Whalen what effect this amendment would have on the bill and Rep. Whalen stated that the only necessary to add in the present statutes in order to retain federal funding was the language on page 4, section 6 and 7.

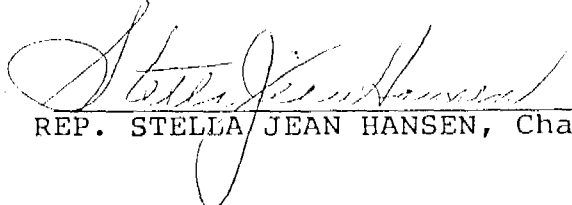
Mary McCue said that all of the amendments in this bill are required for the federal regulations.

Amendments and Votes: A Motion was made by Rep. Squires to submit this bill to subcommittee.

Recommendation and Vote: All voted in favor of submitting this to subcommittee which will be appointed later.

ADJOURNMENT

Adjournment At: 3:30 p.m.


REP. STELLA JEAN HANSEN, Chairman

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date January 13, 1989

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

DISPOSITION OF HOUSE BILL 409

Discussion: Senator Yellowtail questioned the "bad faith" objection. He also thought the bill seemed too broad.

Mr. Conklin said there were exceptions. Even if a client said "I did what my lawyer told me," that would be an exception, in addition to fraud and criminal, according to Conklin. He said common law exists at this time. Then, said Sen. Yellowtail, why must this be added to statute. Mr. Conklin answered because judges "sometimes make mistakes."

Amendments and Votes: There were none.

Recommendation and Vote: Senator Beck MOVED that HOUSE BILL 409 BE CONCURRED IN. The MOTION CARRIED by a vote of 9 to 1, with Senator Yellowtail voting NO.

HEARING ON HOUSE BILL 87

Presentation and Opening Statement by Sponsor:

Representative Tom Kilpatrick of Laurel, District #85, said the bill was requested by the Department of Family Services. He said the department receives approximately \$170,000 in grants from the federal government. In order to continue receiving them, state law must come into compliance with federal law. This bill is to amend certain definitions within the child abuse, neglect and dependency law. With these definitions, the department would be allowed to proceed with civil actions to protect children who are victims of sexual abuse by their parents, guardians or other persons responsible for their care. According to Rep. Kilpatrick, the only controversial part was on page 4, line 13 and it was amended in the House to add "imminent or substantial". He said "substantial" would be necessary to meet federal statute requirements. (Additional information left with the secretary concerning the bill -- Exhibit 5)

List of Testifying Proponents and What Group they Represent:

John Madsen, Department of Family Services

List of Testifying Opponents and What Group They Represent:

Walt Dupea, himself

Testimony:

John Madsen, presented written testimony to the committee and appeared as a proponent. (See Exhibit 2)

Walt Dupea appeared as an opponent saying "due process" should be added to law, so that people would have an opportunity to defend themselves against false accusations.

Questions From Committee Members: Senator Halligan said he would feel more confident leaving "imminent" in and removing "substantial". Mr. Madsen said it was inserted to comply with federal statute. At this point, he said, it was thought it would be better to use the word "substantial".

Senator Halligan asked Leslie Taylor if she had discussed the "due process" portion of law with Mr. Dupea. Leslie Taylor of the Department of Family Services said that was contained in other parts of the statute, and were not necessary in this bill. She said there was a "show cause" hearing required, in addition.

Chairman Crippen suggested that Leslie Taylor discuss this with Mr. Dupea.

Mr. Dupea said he knew people who were intimidated by the system and felt the public should be informed if there is statute which addressed "due process". He said he knew of a lady who had been fighting for custody for 8 years who might benefit by the statute.

Closing by Sponsor: Representative Kilpatrick closed the hearing.

DISPOSITION OF HOUSE BILL 87

Discussion: None

Amendments and Votes: Senator Halligan MOVED on page 4, line 13 to strike "IMMINENT AND"

Recommendation and Vote: Senator Halligan MOVED that House Bill 87 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-1-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 87 (third reading copy -- blue), respectfully report that HB 87 be amended and as so amended be concurred in:

Sponsor: Kilpatrick (Balligan)

1. Page 4, line 13.

Following: "~~imminent~~"

Strike: "IMMINENT AND"

AND AS AMENDED BE CONCURRED IN

Signed: _____
Bruce D. Crippen, Chairman

4/1/89
3/1/89
3/5/89

March 1, 1989

SENATE JUDICIARY
EXHIBIT NO. 2
DATE 3-1-89
House BILL NO. 87

TESTIMONY IN SUPPORT OF HB87

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The most substantial and far reaching change found in the bill is that adding day care providers to the list of persons responsible. This change was brought about because of the child sexual abuse that has been discovered to be occurring nationwide in day care facilities. As has already been noted, Montana DFS already investigates complaints in day care facilities as part of its regulatory function.

The house made an amendment to the bill which if not changed will cause the loss of federal funds. Page 4 line 13 the word imminent was returned.

This change will alter the definition of "threatened harm" and bring it out of compliance with the federal regulations. We have requested an official determination from the regional office in Denver. We will provide their answer when it arrives.

The other changes are technical in nature. I would be happy to answer questions about any of the changes in the bill.

Madsen

SENATE JUDICIARY

EXHIBIT NO. 2 p. 3

DATE 3-1-89

BILL NO. HB 87

AMENDMENT TO HB 87 (THIRD READING)
PROPOSED BY THE DEPARTMENT OF FAMILY SERVICES

1. Page 4, line 13
Following: ~~imminent~~
Strike: IMMINENT AND